IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 07.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.512 of 2006

Marimuthu ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by the
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records pertaining to the detenu Saravanan @ Odi Saravanan, who is detained under Tamil Nadu Act 14 of 1982 as a Goonda at Central Prison, Chennai by the second respondent vide his order memo No.72/BDFGISV/2006 dated 31.3.2006 on the file of the second respondent herein, quash the same and direct the respondent herein to produce the body and person of the said detenu before this Court and set him at liberty.

For Petitioner : Mr.P.Ravikumar for
Mr.V.Devendhiran

For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

`The petitioner, who is the father of the detenu by name Saravanan @ Odi Saravanan, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

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Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 31.03.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, by pointing out the discrepancies in the arrest memo as well as the amount said to have been recovered from the detenu, has contended that in view of the same, the ultimate detention order is to be quashed. We verified the relevant documents available from the paper book supplied to the detenu. It is true that the arrest memo does not contain crime number for which, the learned Additional Public Prosecutor points out that the arrest memo was prepared on the spot and that was the reason, the crime number was not mentioned in the arrest memo. We accept the said contention.

4. Regarding the discrepancy in the amount said to have recovered from the detenu, even according to the statement of the complainant, Rs.185/- has been taken from the pocket of the detenu. No doubt in one place it is mentioned as Rs.205/- and in another place as Rs.125/-. In all other places the amount has been correctly stated as Rs.185/-. In view of the categorical statement of the complainant that a sum of Rs.185/- was taken from his pocket by the detenu, we are of the view that the discrepancy pointed out is trivial in nature and it would not affect the ultimate detention order passed by the detaining authority. Accordingly, we reject the said contention.

5. The learned counsel for the petitioner further submitted that though the detaining authority has referred to a relevant fact that the detenu was arrested in P6 Kodungaiyur Police Station Crime No.192/2006 and the detenu has admitted the offence, according to him, no documents or particulars were furnished to the detenu. The learned Additional Public Prosecutor has brought to our notice that the detenu was arrested only in Crime No.192/2006 on the file of P6 Kodungaiyur Police Station and this has been correctly stated in the first adverse case and in another two cases instead of Crime No.192/2006 it was mentioned as Crime No.172/2006. On verification, we are of the view that the mistake has occurred in adverse cases 2 and 3 viz., describing the crime No.172/2006 instead of 192/2006 and we are satisfied that on that ground the detention order cannot be faulted with. Accordingly, we reject the said contention also.

6. Finally the learned counsel for the petitioner submitted that though his first representation was considered, his second

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representation dated 10.07.2006 has not been properly considered by the Government. In such circumstances, we verified the statement made in the representation dated 10.07.2006 and the reply by the Government dated 21.07.2006. As rightly pointed out by the learned Additional Public Prosecutor, it is not in dispute that the first representation of the detenu was properly considered and disposed of without any delay. In such circumstances, in the absence of any additional material in the second representation, taking note of the fact that even the second representation was duly considered and disposed of on 21.07.2006 itself, we are unable to accept the said contention of the learned counsel for the petitioner. Accordingly, we reject the same.

7. In the light of what is stated above, we do not find any ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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